IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

MFA.No. 260 of 2001(B)

IC.40/1999 of ESI COURT, PALAKKAD
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APPELLANT:
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1. THE REGIONAL DIRECTOR,
E.S.I. CORPORATION, THRISSUR.

2. THE RECOVERY OFFICER, E.S.I. CORPORATION,
THRISSUR.

BY ADV. SRI.T.V.AJAYAKUMAR

RESPONDENTS:

M/S.PHARMACEUTICAL CORPORATION (I.M),
KERALA LTD., P.B.NO.174, THRISSUR-1
REPRESENTED BY ITS MANAGING DIRECTOR.

BY ADV. SRI.U.K.RAMAKRISHNAN
SRI.P.V.LOHITHAKSHAN
SRI.V.KRISHNA MENON
SMT.P.VIJAYAMMA

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 18.9.2007, THE COURT ON 18/09/2007 DELIVERED THE FOLLOWING:

J.B.KOSHY & K.HEMA,JJ.

M.F.A.NO.260 OF 20O1

Dated this the 18th day of September, 2007

JUDGMENT

Koshy, J.

The respondent in this case is a covered establishment coming under the E.S.I Act. When the wage limit of the employees for the purpose of coverage was increased from Rs.1,600/- to Rs.3,000/-, the employees and the union approached this Court and obtained an interim stay of operation of the notification, thereby the employer was prevented from collecting employees' contribution or employer's contribution or covering the employees who are covered by the stay order and the employer was compelled to pay the benefits like medical expenditure etc. during the period, because they were not able to cover the employees who were getting more than Rs.1,600/- per month. When the matter was decreed, the Corporation was able to get the entire arrears of both employees' and employer's contribution without spending any money on the interest for the period in question. When the interest and damages were demanded, the E.I. Court held that the employer was prevented from paying contribution because of the stay order. In the

above facts and circumstances, it is not proper to demand for interest and damages. In an identical situation a Division Bench of this Court in ***Regional Director, ESI Corporation v. Cannanore Spinning & Weaving Mills*** (2001(3) KLT 393) upheld a similar order. The E.I. Court only followed the above decision. In view of the above decision, there is no merit in the appeal. The appeal is dismissed.

J.B.KOSHY, JUDGE

K.HEMA, JUDGE

vgs.

J.B.KOSHY & K.HEMA, JJ.

M.F.A.NO.260 OF 2001

JUDGMENT

18.9.2007